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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

ORIGINAL

In the Matter of)

Assessment and Collection)
of Regulatory Fees for)
Fiscal Year 1995)

MD Docket No. 95-3

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REQUEST FOR ACCEPTANCE OF LATE-FILED COMMENTS

AVIS Rent A Car ("AVIS"), by its attorneys, hereby requests that the Commission accept one day late AVIS' comments in response to the Notice of Proposed Rulemaking ("Notice") in the above-referenced proceeding. AVIS did not timely file because counsel for AVIS was unable to come to work because of an ill child. AVIS does not believe that any other interested parties will be prejudiced by the Commission's acceptance of these comments out of time. Moreover, AVIS believes that the public interest would be advanced by the Commission having as full and complete a record as possible. AVIS, as both a major customer and reseller, brings to this proceeding perspectives that may not be shared by any other commenting parties. WHEREFORE, AVIS requests that the Commission accept these comments one day late.

Respectfully submitted,

AVIS Rent A Car

By: 

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February 14, 1995

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COMMENTS OF AVIS RENT A CAR

AVIS Rent A Car ("AVIS"), by its attorneys, hereby files its comments in response to the Notice of Proposed Rulemaking ("Notice") in the above-referenced proceeding. The Notice proposes revisions to the FCC's Schedule of Regulatory Fees to recover the costs of its "enforcement, policy and rulemaking and international activities and user information services for FY 1995."^{1/} The Notice proposes, for the first time, to impose such fees on resellers such as AVIS.^{2/} For Fiscal Year 1995, the FCC proposes charging a fee of \$.13 for each "customer unit" provided by such carriers as of December 31, 1994 ("the Customer Unit Approach").^{3/} Alternatively, the FCC proposes charging resellers \$.08 per 1000 interstate minutes of use billed in 1994 ("the MOU Approach").^{4/}

^{1/} Assessment and Collection of Regulatory Fees for Fiscal Year 1995, Notice of Proposed Rulemaking, FCC 95-14, MD Docket No. 95-3 (released January 12, 1995) at para. 2.

^{2/} Id. at para. 57.

^{3/} Id. at para. 59. What constitutes a "customer unit" depends on the type of service offered. For example, for switched services, such as 800 or operator services, not billed to the number from which the call is placed, the number of customer units would equal the number of billing accounts less those accounts already associated with presubscribed lines reported by the carrier. Id.

^{4/} Id. at para. 60.

AVIS respectfully suggests that the imposition of regulatory fees on domestic resellers is inappropriate. For the vast majority of resellers, the only federal regulatory function arguably undertaken on their behalf is the review of their tariffs. However, to the extent that resellers' rates are merely those charged by the underlying interexchange carrier ("IXC"), the FCC has already undertaken the necessary tariff review by reviewing the IXC's tariff. Indeed, to date, AVIS is unaware of any reseller tariff investigated or found unlawful by the FCC.

Nevertheless, to the extent that the imposition of regulatory fees on resellers is found to be appropriate, AVIS believes that, for resold services, the Customer Unit Approach provides the more equitable of the two alternatives proposed by the FCC. The charge of 13¢ on preselected lines and 13¢ per dedicated account is more appropriate. The MOU Approach inappropriately would charge both the reseller and the underlying IXC for the same minutes of use.

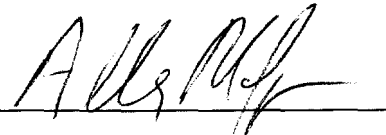
This "double counting" of minutes in the MOU Approach occurs because of the nature of resold services. Typically, a reseller is both a customer and a carrier. A reseller frequently is a high volume customer of at least one IXC's service(s). The reseller resells such services to end-user customers, enabling end-users to enjoy volume discounts that otherwise may not be available to them. Under the FCC's MOU Approach, both the underlying IXC and the reseller would be charged regulatory fees for the end-user's minutes of use. Although the FCC's inability

to devise a mechanism around this problem is understandable,^{5/} nevertheless the resulting "double counting" would unnecessarily and improperly burden resale.^{6/}

To avoid such redundancy, AVIS recommends that the FCC adopt its Customer Unit Approach. Although not perfect, this approach properly differentiates between the customers of the reseller and the customers of the underlying IXC, thereby equitably distributing the resulting burden of regulatory fees between such carriers.

Respectfully submitted,

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^{5/} Any mechanism that could be crafted attempting to address this problem would create unnecessarily complex burdens on resellers, particularly in light of the relatively small regulatory fees at issue. For example, it would be extremely burdensome to all carriers involved to require resellers to calculate the minutes of use generated by their customers and then to report such use to each underlying IXC who would have to deduct such minutes from those it would otherwise report. Such reporting could raise competitive concerns.

^{6/} The FCC has consistently extolled the benefits of unlimited resale. See, e.g., Regulatory Policies Concerning Resale and Shared Use of Common Carrier Services and Facilities, Report and Order, 60 FCC 2d 261 (1976) at 298-29.